

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

L.A. BAILEY,

Defendant.

No. 10-30005-DRH

ORDER

HERNDON, Chief Judge:

Now before the Court is attorney Eugene Howard's November 19, 2012 memorandum in response to the Court's October 29, 2012 Order and motion to withdraw as counsel (Doc. 61). Mr. Howard moves to withdraw from this matter as he maintains that defendant is not entitled to a reduction because of his career offender status. Mr. Howard also states that after communicating with defendant that defendant wishes to proceed with his motion as a supplement to his pending 28 U.S.C. § 2255.

On October 22, 2012, defendant, pro se, filed a motion for modification of an imposed term of imprisonment pursuant to § 3582(c)(i) (Doc. 54).¹ Specifically, defendant maintains that he is entitled to a sentence reduction in light of the Fair Sentencing Act and *United States v. Dorsey*, 132 S.Ct. 2321 (2012). On October 29,


¹The Court notes that defendant filed the same motion on November 16, 2012 (Doc. 60).

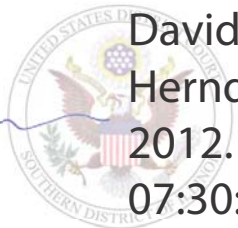
2012, the Court noted that the proper vehicle to obtain such relief is through a 28 U.S.C. § 2255 petition and not through 18 U.S.C. § 3582(c). *See United States v. Floore*, 09-300191-DRH (Doc. 59)(citing *United States v. Yates*, 2012 WL 3206689 *1-2 (S.D. Alabama, August 8, 2012)) (Doc. 55). Thus, the Court denied for lack of jurisdiction defendant's motion for modification of an imposed term of imprisonment pursuant to § 3582(c)(i), informed defendant of its intent to re-characterize the motion as one pursuant to 28 U.S.C. § 2255 and appointed Mr. Howard to represent Bailey solely for the FSA and *Dorsey*.

Based on the representations in Mr. Howard's memorandum, the Court **GRANTS** Mr. Howard's request to withdraw as counsel. Further, the Court **ALLOWS** defendant up to and including December 21, 2012 to file a response regarding the FSA, *Dorsey* and the career offender issue. Thereafter, the Court **ALLOWS** the government two weeks from defendant's response to file a reply.

IT IS SO ORDERED.

Signed this 21st day of November, 2012.


David R.
Herndon
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**Chief Judge
United States District Court**